



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

REG-127895-14

RIN 1545-BM33

Dividend Equivalents from Sources within the United States

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY:

DATES: Written or electronic comments must be received by **[INSERT DATE 90 DAYS**

**AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Outlines of topics to be discussed at the public hearing scheduled for January 15, 2016, at 10 a.m. must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-127895-14), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-127895-14), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20044, or sent electronically,

via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-127895-14). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, D. Peter Merkel or Karen Walny at (202) 317-6938; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing Oluwfunmilayo Taylor at (202) 317-6901 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

#### **Background and Explanation of Provisions**

Final and temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations (26 CFR Part 1) which provide rules for determining when a payment made pursuant to certain financial products will be treated as a dividend equivalent for purposes of section 871(m). These proposed regulations provide guidance relating to the substantial equivalence test, which is used to determine whether a complex contract is a section 871(m) transaction. These proposed regulations also provide guidance to qualified derivatives dealers. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the final and temporary regulations explains the temporary regulations and these proposed regulations. The regulations affect nonresident alien individuals, foreign corporations, and withholding agents.

#### **Special Analyses**

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563.

Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### **Comments and Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the “Addresses” heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at [www.regulations.gov](http://www.regulations.gov) or upon request.

A public hearing has been scheduled for January 15, 2016, beginning at 10 a.m. in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be

discussed and the time to be devoted to each topic by **[INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Submit a signed paper or electronic copy of the outline as prescribed in this preamble under the “Addresses” heading. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### **Drafting Information**

The principal authors of these regulations are D. Peter Merkel and Karen Walny of the Office of Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements

### **Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### **PART 1--INCOME TAXES**

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

§1.871-15 also issued under 26 U.S.C. 871(m). \* \* \*

Par. 2. Section 1.871-15 is amended by revising paragraph (c)(2)(vi) and paragraph (h) to read as follows:

§1.871-15 Treatment of dividend equivalents.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iv) [The text of the proposed amendments to §1.871-15(c)(2)(iv) is the same as the text of §1.871-15T(c)(2)(iv) published elsewhere in this issue of the **Federal Register.**]

\* \* \* \* \*

(h) [The text of the proposed amendments to §1.871-15(h) is the same as the text of §1.871-15T(h) published elsewhere in this issue of the **Federal Register.**]

\* \* \* \* \*

(q) [The text of the proposed amendments to §1.871-15(q) is the same as the text of §1.871-15T(q) published elsewhere in this issue of the **Federal Register.**]

Par. 3. Section 1.1441-1 is amended by revising paragraph (e)(3)(vii) and paragraph (e)(6) to read as follows:

§1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(E) [The text of the proposed amendments to §1.1441-1(e)(3)(ii)(E) is the same as the text of §1.1441-1T(e)(3)(ii)(E) published elsewhere in this issue of the **Federal Register.**]

\* \* \* \* \*

(5) [The text of the proposed amendments to §1.1441-1(e)(5) is the same as the text of §1.1441-1T(e)(5) published elsewhere in this issue of the **Federal Register**.]

(6) [The text of the proposed amendments to §1.1441-1(e)(6) is the same as the text of §1.1441-1T(e)(6) published elsewhere in this issue of the **Federal Register**.]

John Dalrymple

Deputy Commissioner for Services and Enforcement.

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